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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,358	05/25/2005	Christophe Kopp	123236	5027

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EXAMINER	
BUI PHO, PASCAL M	
ART UNIT	**PAPER NUMBER**
2878	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/528,358	KOPP ET AL.	
	Examiner	Art Unit	
	Pascal M. Bui-Pho	2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *18 March 2005* .
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claim 1 is objected to because of the following informalities: on line 1, "Optical device" should be changed to --An optical device--; on line 5, "optical device" should be deleted; and on line 6, "to" should be changed to --of--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10, 13, 15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Yanagi (US 5,847,819).

With regards to claim 10, Yanagi discloses in Fig. 1 an optical device comprising: reflecting means (8a) arranged on the optical path of an incident beam emitted by a first optical source (5) so as to form a reflected light beam; a second optical source (4) producing a second light beam of different wavelength (Column 5, lines 1-4) so that the reflected beam and the second light beam pass through a zone (11) of the space wherein an object (13) to be analyzed is to be exposed, and reach a common sensor (3), wherein the reflecting means are arranged

proximate and outside of the optical path of the second beam and wherein the optical device comprises a collimating lens (9) common to the first and second sources and arranged at the intersection (it is herein considered that overlapping beams are a form of intersection) of the first incident beam and of the second beam.

With regards to claim 13, Yanagi discloses an optical device wherein the reflecting means (8a) are formed by a mirror (Column 5, lines 9-11).

With regards to claim 15, Yanagi discloses an optical device wherein the reflecting means (8a) are formed by a semi-reflecting plate; that is, with reflective and transmissive properties.

With regards to claim 18, Yanagi discloses an optical device wherein a lens (14) is arranged between the zone (11) of the space wherein the object (13) to be analyzed is to be exposed and the sensor (3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagi (US 5,847,819) in view of Reitsema (US 4,709,146).

With regards to claims 11 and 12, Yanagi discloses in Fig. 1 an optical device comprising, among other features, reflecting means (8a), but lacks a clear specification of said means having means to deform and/or orient the reflecting means. In an analogous optics art,

Reitsema discloses in Figs. 1 and 6 an optical device comprising, among other features, reflecting means (50A) with means to deform and/or orient the reflecting means (Column 5, lines 13-17). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Yanagi by incorporating well-known optics, as taught by Reitsema, in order to provide greater modulation control of the emitted light.

7. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagi (US 5,847,819) in view of Wieser et al. (US 5,608,220).

With regards to claims 14 and 16, Yanagi discloses in Fig. 1 an optical device comprising, among other features, reflecting means (8a), but lacks a clear disclosure of said means containing an absorbing element to absorb a part of a light radiation. In an analogous optics art, Wieser et al. disclose in Fig. 1 an optical device comprising, among other features, reflecting means (3) containing an absorbing element (4) to absorb a part of a light radiation (Se). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Yanagi by incorporating an absorption layer to the reflecting means, as taught by Wieser et al., in order to provide improved control of extraneous radiation (Column 1, lines 51-55).

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagi (US 5,847,819) in view of Hironori et al. (JP 09-197177).

With regards to claim 17, Yanagi discloses in Fig. 1 an optical device comprising, among other features, a collimating lens (9), but lacks a clear specification of said lens being spherical. In an analogous optics art, Hironori et al. disclose in Fig. 1 an optical device comprising, among other features, a spherical collimating lens (3). At the time of the invention,

selecting a specific collimating lens shape to direct light would have been obvious to one of ordinary skill in the art, as taught by Hironori et al. Hence, it would have been obvious to modify Yanagi accordingly in order to provide greater control of light modulation.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Alfano et al. (US 6,151,522) disclose a method and system for examining biological materials using low-power continuous wave (cw) excitation Raman spectroscopy.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pascal M. Bui-Pho whose telephone number is (571) 272-2714. The examiner can normally be reached on Monday through Friday: 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Georgia Epps
Supervisory Patent Examiner
Technology Center 2800